

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.7507/07
Sunil Agarwal & Anr.
Vs.
Smt. Neelima Agarwal

20.09.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Suresh Sahni for petitioner.

The petitioner has challenged the order dated 25.8.2007 passed by Additional Civil Judge (Jr. Division), Jaipur City, Jaipur. By that order, the Court has mainly issued notices to the petitioner on application filed by the plaintiff respondent under Order 39 Rule 2A of CPC.

The learned counsel for the petitioner has argued that the issuance of notice by that Court was without

jurisdiction inasmuch as the same amounted to abuse of the process of Court. Learned counsel for the petitioner argued that injunction order was infact passed in relation to some other part of the disputed property whereas the construction which is now being raised is on another part. It is alleged that trial court has exceeded its jurisdiction in issuing the notice.

Having heard the learned counsel for the petitioner and perused the impugned order as also the application on which the said notice was issued, I find that in para 3 to 5 of the application, the respondent plaintiff pointed out alleged violation of the injunction order passed by the Court and the Court while issuing notice to the defendant

petitioner on that basis did not act either contrary to law or in excess of its jurisdiction as determination of the question whether the injunction order was violated or not could be made only upon the response of the defendant was obtained.

In the circumstances, therefore, I do not find any extraordinary reason to entertain the petition filed against mere issuance of notice.

The writ petition being misconceived is dismissed.

(Mohammad Rafiq), J.

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